

INFORMATION LETTER

Not for
Publication

NATIONAL CANNERS ASSOCIATION

For Members
Only

No. 1330

Washington, D. C.

March 31, 1951

U. S. Supreme Court Decides FDA 'Imitation Jam' Case

The Supreme Court of the United States on March 26 rendered its decision in the case of *Sixty-two Cases of Jam vs. United States*, and in so doing gave judicial approval to the interstate sale and distribution of a product which physically resembles a food for which a standard of identity has been established by the Federal Food and Drug Administration but which fails to conform to such standard, provided that the product is labeled "Imitation" and its ingredients are properly listed on the label. The decision clarifies one phase of the long standing uncertainty surrounding the relationship between Section 343(c) of the Act, which bans a food in imitation of another food unless its label bears the word "Imitation" immediately preceding the name of the food imitated, and Section 343(g), which declares a food misbranded if it "purports to be or is represented as" a standardized food and fails to conform to the standard.

The Food and Drug Administration had sought to condemn as misbranded a product labeled as "Imitation Jam" on the grounds that the product, which was bought, sold, and ordered as jam

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OPS Working on Price Regulation For Canned Fruits and Vegetables

The immediate need for removing canned fruits and vegetables from their present "freeze" pricing and for setting up a price regulation fitted especially to the operations of the canning industry were among matters discussed by canning industry representatives last weekend at a meeting with the Office of Price Stabilization.

At the meeting, held March 23-24, it was indicated that the type of pricing to be used will probably involve a canner's average prices during a specified base period, plus certain of his increased costs of raw materials since that time.

Amendment to Can Order Scheduled for Early Issuance

An amendment to the can order, M-25, reducing the quantities of cans to be permitted for packing certain canned foods, has been drafted by the National Production Authority and is scheduled for early issuance.

It is expected that the amendment will be issued Monday, April 2, and that it will cover second quarter packing operations.

With apparent classification as to essentiality, heavy cuts are indicated for certain nonseasonal foods. These cuts will reduce the supply of cans for these products to as low as 85

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The personnel of the Fruit and Vegetable Canners' Industry Advisory Committee to OPS is identical with that of the group functioning for the

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May Meeting of Directors Scheduled for Washington

The usual May meeting of the N.C.A. Board of Directors will be held in Washington, it is announced by President H. J. Barnes. The meeting is considered necessary in view of the rapid development of emergency control measures affecting canners.

Dedication of the West Coast Building has been postponed to September or October, 1951. At the Convention meeting of the Board there was discussion of plans to hold the May meeting of the Directors on the Coast at the same time as the Dedication. These were reviewed at a special meeting of the West Coast Building Subcommittee, H. E. Gray, Chairman, with members of the Dedication Committee, Norman L. Waggoner, Chairman, during the recent Canners League convention in Santa Barbara. President Barnes attended the meeting, and decision to defer Dedication until fall was reached after full consideration of the outlook for completion and occupancy of the new building.

In all probability, another Board meeting will be held in conjunction with the West Coast Dedication program, but this will be decided at the spring Board meeting in Washington.

USDA Ready with Set-Aside Order

The Department of Agriculture is expected to issue a basic set-aside order this coming week. In addition to the basic order, USDA's present intention is to issue at the same time a supplementary order establishing the vegetable commodities subject to set-aside, the percentage to be set aside on each commodity, and the armed services preferences by grade, type, and can size. An additional supplement dealing with canned fruits is not expected for several weeks.

Tentative armed services canned food requirements from the 1951 pack were published in the INFORMATION LETTER of January 27, page 21.

Specific terms of the proposed set-aside order have not been released by the USDA, although its Fruit and Vegetable Canners' Industry Advisory

Committee discussed details of the proposal at its meeting with Agriculture and Quartermaster General officials March 22-23. However, it may be assumed that no commodity will be subject to a set-aside if the armed services' requirement is less than 10 percent of the annual pack. Likewise, it may be assumed that the order will indicate the armed services' preferences by commodities to be those grades, types and can sizes contained in armed services' invitations for bids and past announcements. Generally, the armed services endeavor to confine their purchases to the broad band of middle grades and, as announced by the Office of the Quartermaster General at the Chicago Convention, their first preference in terms of can size is the No. 10 container.

STATISTICS

Wholesale Distributor Stocks of Canned Foods

A summary showing wholesale distributor and canner stocks of specified canned foods, compiled by the Bureau

of the Census and combining canner's stock totals of the N.C.A. Division of Statistics, is shown below:

Wholesale Distributor and Cannery Stocks of Specified Canned Foods

(Including warehouses of retail food chains)

	March 1, 1950		March 1, 1951		Feb. 1, 1951		All sizes smaller than No. 10	Institution sizes, all sizes No. 10 or larger
	Distributors	Canners	Distributors	Canners	Distributors	Canners	March 1, 1951	March 1, 1951
			(in thousands of)		(actual cases)			
Vegetables:								
Beans, green and wax	3,736	5,387	5,342	6,116	4,857	7,919	4,247	1,095
Corn	6,943	18,316	8,925	7,385	8,276	10,697	8,140	785
Peas	5,618	7,295	7,433	5,826	7,256	9,181	6,623	810
Tomatoes	4,999	6,232	5,892	1,046	6,243	2,206	4,908	984
Fruits:								
Apricots	865	1,257	1,219	905	1,019	958	1,029	190
Fruit cocktail	1,683	5,865	2,727	2,344	2,582	3,604	2,372	355
Peaches	4,190	9,156	5,746	2,790	6,281	4,172	4,953	793
Pears	1,008	2,421	1,639	2,207	1,356	2,963	1,369	270
Pineapple	3,940	4,007	3,428	2,652	3,128	3,628	4,820	608
Juices:								
Tomato	3,251	10,271	4,747	6,122	4,211	8,524	4,510	237
Grapefruit	1,563	2,338	2,413	2,635	2,003	1,846	2,345	68
Orange	2,391	5,474	2,743	6,792	2,402	7,359	2,702	41
Citrus blend	854	1,769	1,006	2,097	834	1,006	987	19
Pineapple	1,600	3,387	2,053	5,003	2,192	5,362	1,998	44

DEFENSE

Percentage Markups on Sales By Wholesalers and Retailers

Controlled percentage margins that wholesalers and retailers must use in fixing maximum prices on many foods are established by Ceiling Price Regulations 14, 15 and 16, issued March 28.

The regulations fix the maximum markups as percentages over net cost. The Office of Price Stabilization explained that the new regulations are designed to take foods from under the general "freeze" and to put them under a system of price control patterned after the World War II orders.

Canned fruits and vegetables, canned meats, canned fish, baby foods, and jams and jellies are among the major foods covered in the new regulations. The regulations do not affect sales by canners.

CPR 14 establishes markup "figures" for each of 36 categories of foods, and each markup figure is to be multiplied by net cost of each item to determine the ceiling price on each food.

CPR 15 and 16 classify retail stores in four groups, based mainly on annual dollar volume of sales. For each of 36 food categories, the retailer is told what percentage markup he can apply to his net cost to arrive at his allowable ceiling.

A statement by Price Stabilizer Michael V. DiSalle said, in part:

"When we can get more stability into the picture, so that prices don't have to be changed oftener than, say, once a month, we can take the final step and put posted, dollars-and-cents ceilings into effect."

Price Regulation on Canned Foods

(Concluded from page 161)

U. S. Department of Agriculture (see INFORMATION LETTER of February 28, page 125).

The canners urged that OPS use as recent a base period as possible, pointing out that, especially among small operators, it would be hard to find adequate cost and sales records covering production earlier than last season.

The advisory committee agreed to furnish information that will help OPS name an equitable base period and advice indicating what elements of higher canning costs since that period should be reflected in price ceilings. The committee agreed to return

to Washington as soon as possible to furnish and discuss these industry data.

At a meeting of the Beef Industry Advisory Committee last week, OPS discussed a proposed regulation that would establish dollars and cents ceilings for dressed beef.

Area 'Legal Minimums'

National "legal minimum" prices for vegetables for processing as of March 15 were announced late yesterday by the Production and Marketing Administration, USDA.

To determine location adjustments as of March 15, the dollar and cent increase over the January 15 prices should be applied to the area price for each commodity as listed in USDA's January 15 "legal minimum" prices.

Vegetables for Processing	Legal minimum Jan. 15, 1951	Legal minimum March 15, 1951	Increase (dollars per ton)
	1951	1951	
Asparagus.....	205.00	205.00	...
Beans, lima.....	152.00	157.00	5.00
Beans, snap.....	122.00	128.00	4.00
Beets.....	23.80	24.50	1.70
Cabbage.....	16.80	17.30	.50
Corn.....	22.70	23.40	.70
Cucumbers (bu.)...	1.63	1.63	...
Peas.....	99.00	102.00	3.00
Pimientos.....	71.50	73.40	1.90
Spinach.....	58.50	60.20	1.70
Tomatoes.....	31.80	32.30	.50

The prices announced by USDA are not support prices and do not represent prices that must legally be paid to growers (see INFORMATION LETTER of March 10, page 141).

Amendment to Can Order

(Concluded from page 161)

percent of the base period, instead of the 100 percent now permitted.

In response to an increase in meat slaughter amounting to 6 percent, authorized by USDA, the can order will be amended to permit unlimited packing of certain meats and meat products, limited in the original order to 100 percent of the base period.

Seasonal products now are permitted unlimited supply of cans, and the amendment is not expected to curtail the pack of any of these products.

It has been indicated that for canners who were unable to pack their full quotas under first quarter allocations, the amendment will permit a carry-over into the second quarter.

PUBLICITY

N.C.A. Home Economist on TV

Miss Martha Gazella, N.C.A. Home Economist, was a guest on the program "At Home with Elinor Lee" on WTOP-TV, Washington, D. C., in mid-March.

She presented "Gold Star Lenten Dishes from Our Test Kitchens," featuring canned fish. The preparation of one easy mixture that the homemaker could use for hot sandwiches, in a loaf, or in patties dressed up with a special sauce, was demonstrated. Finished products were shown garnished for serving.

As Miss Gazella chatted informally with Mrs. Lee, she showed other "Gold Star" canned fish dishes. A luncheon salad, and a chafing dish entree were featured. Throughout her script, Miss Gazella pointed out how versatile, easy to prepare, and budget-wise meals of special appeal can be made with canned fish.

Institutional Food Wholesaler

In the March issue of *Institutional Food Wholesaler* magazine, Alice Zabriskie has an article "Canned Fruit Products," in which she gives the history of the growth and development of canned fruit cocktail and fruits for salads.

The article begins, "Canned fruit cocktail and canned fruits for salads are two of the most popular, and practical, items in any wholesale grocer's line. Because of their appetizing appearance, the small amount of kitchen labor required in adding them to the institutional menu, and the public demand for fruit as part of a healthful diet (regardless of the season), they are 'naturals' for a great variety of everyday food dishes."

Eighteen ways in which fruit cocktail may be used in institutional menus are listed and the author says, "The chef has a minimum of work and worry when he uses them, and dishes containing the specialties boast a maximum of eye appeal."

The chart "Servings per Unit for Various Canned Foods in Common Can and Jar Sizes," from the N.C.A. Home Economics Division leaflet, is reproduced in the Wholesaler Food Facts Section, and it is suggested that the table be filed for reference.

MEETINGS

Ozark Cannery Association

The spring meeting of the Ozark Cannery Association will be held May 11 at the Severs Hotel in Muskogee, Okla., it is announced by F. R. Spurgin, secretary-treasurer.

Forthcoming Meetings

- April 11—Tidewater Cannery Association of Virginia, Annual Meeting, The Tides Inn, Irvington
- April 17-20—American Management Association, 20th National Packaging Exposition, Atlantic City, N. J.
- April 19—Indiana Cannery Association, Spring Meeting, Claypool Hotel, Indianapolis
- April 22-25—United States Wholesale Grocers' Association, Convention and Food Distribution Exposition, Miami Beach, Fla.
- May 11—Ozark Cannery Association, Spring Meeting, Severs Hotel, Muskogee, Okla.
- June 2-4—Michigan Cannery Association, Spring Meeting, Park Place Hotel, Traverse City
- June 27-29—National Pickle Packers Association, Midyear Meeting, Sheraton Hotel, Chicago
- October 24-26—National Pickle Packers Association, Annual Meeting, Sheraton Hotel, Chicago
- November 15-16—Indiana Cannery Association, Annual Convention, French Lick Springs Hotel, French Lick Springs
- November 19-20—Pennsylvania Cannery Association, Annual Convention, Penn Harris Hotel, Harrisburg

STANDARDS

Broccoli for Processing

U. S. standards for broccoli for processing have been established by the Production and Marketing Administration, USDA, and will become effective April 28.

Supreme Court Decision

(Concluded from page 161)

and looked and tasted like jam, but which failed to conform to the standard of identity for jam, "purported" to be jam and therefore is banned by Section 403(g) of the Act. The manufacturer of the product contended that since his product was correctly labeled as "Imitation Jam," its sale and distribution was authorized by Section 403(c) of the Act. (See INFORMATION LETTER of December 9, page 340).

The Supreme Court, with two Justices dissenting, upheld the legality of the product when so labeled, and rejected the Food and Drug Administrator's contention that nothing can

be legally "jam" after the Administrator establishes a standard of identity for that product unless it contains the specified ingredients in the prescribed proportion. In rendering its decision, the Court stated that:

"... If Congress wishes to say that nothing shall be marketed in likeness to a food as defined by the Administrator, though it is accurately labeled, entirely wholesome, and perhaps more within the reach of the meager purse, our decisions indicate that Congress may well do so. But Congress has not said so. It indicated the contrary."

FOREIGN AID

Gross U. S. Foreign Aid

Gross foreign aid extended by the U. S. government in the form of cash or goods and services amounted to \$4.5 billion in 1950 as compared with over \$6 billion in 1949, according to a compilation by the Office of Business Economics, U. S. Department of Commerce.

This was the first year since the end of World War II that gross foreign aid of the U. S. has been less than \$5 billion, it was noted.

The aid includes grants and credits under the European Recovery Program (Marshall Plan), the Mutual Defense Assistance Program, and other military assistance and military support programs.

Net foreign aid, which takes into account the receipts by the U. S. government of reverse grants and returns of grants and the principal repayments of credits, was slightly above \$4 billion in 1950.

PERSONNEL

New Jersey Cannery

The New Jersey Cannery Association elected the following officers at the association's annual convention:

President—Arthur E. Schiller, Hunt Foods of New Jersey, Inc., Bridgeport; vice president—Norman Bauer, Stokely Foods, Inc., Trenton; secretary-treasurer—Newlin B. Watson, R. S. Watson & Son, Greenwich (re-elected).

Tennessee-Kentucky Cannery

The Tennessee-Kentucky Cannery Association elected the following officers at the association's annual convention:

President—Houston Herndon, Humboldt Canning Co., Humboldt, Tenn.; vice president—Jack Bush, Bush Brothers & Co., Dandridge, Tenn.; secretary-treasurer—H. L. W. Hill, Tennessee Foods, Inc., Portland, Tenn. (reelected).

RENEGOTIATION

Renegotiation Act of 1951

The Renegotiation Act of 1951 was signed into law (P. L. 9) by President Truman on March 23. An analysis of the Act was published in the INFORMATION LETTER of March 17, page 152.

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